

Obstruction of justice

Abstract

In the introduction, this rigorous thesis introduces to its readers the issue of the crime of obstruction of justice under the provisions of the Section 347a, Act No. 40/2009 Sb. Criminal Code, as amended, outlines the structure of the thesis and its main goals. Subsequently, the thesis is divided into nine chapters.

In the first chapter I ponder about different perceptions of the term "justice".

In the second chapter I analyze the theoretical context of evidence, which is fundamental for the further argumentation in the next chapters. Although the emphasis in the thesis is put on criminal proceedings, attention is also paid to civil proceedings. I analyze the types of legal evidence, where I deal more closely with with interrogation of the accused and witnesses, as well as documentary and material evidence. I also do not leave out the issue of onus and burden of proof. After all, an attempt to carry them may be the motive for the perpetrator to commit the crime of obstruction of justice.

In the third chapter I describe the evolution of legal opinions on the criminal liability of lying and the presentation of falsified and altered evidence in time. On the base of the historical insight into this issue, I analyze the case law development over the last 15 years. I pay particular attention to the ruling of the Supreme Court published in Collection of Judgments and Opinions under No. 24/2006 Sb. rozh. tr. and the implications of the conclusions drawn therein for the further development of case-law.

The fourth chapter deals with the characteristics of offenses directly related to the offense of obstruction of justice under the Section 347a of the Criminal Code, such as the offense of false accusation (Section 345), false testimony and false expert opinion (Section 346). or misinterpreting (§ 347).

In the fifth chapter I closely analyze the original draft amendment No. 287/2018 Coll., concentrating on the draft provisions of the Section 347a of the Criminal Code. I focus on the main arguments on the advisability or in advisability of the proposed legislation, which laid the basis for amendments in the legislative process.

In the sixth chapter I analyze the crime of obstruction of justice under the Section 347a of the Criminal Code, as adopted. It explains the structure of the crime and the problems that may be closely related to it.

In the seventh chapter I deal with the topic from the perspective of constitutional law as well as from the international regulation. In this chapter I also deal with extraordinary remedies that can be applied in the main proceedings in connection with the conviction within the subsequent criminal proceedings for committing the crime of obstruction the justice according to the Section 347a of the Criminal Code in connection with the main proceedings.

In the eighth chapter I react to the certain arguments, which were expressed especially during discussions within the legislative process, mainly from the professional community, and I analyze particularly those aimed at possible conflicts with the duties of attorneys and lawyers.

In the ninth chapter I deal with various approaches to sanctioning procedural fraud within the other European legal regulations, namely the German, Austrian and Slovak regulations, when the last one was taken by the Czech legislator as a model.

In the conclusion of the thesis I present a summary of the knowledge gained in solving the disputed issues, which emerge from the arguments used in the discussions on the proposed amendment of the new crime and the conclusions drawn from them.

Keywords: justice, obstruction, crime